IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Bail Appl..No. 4444 of 2007()

CRIME NO.42 OF 2007 OF MANNARKKAD POLICE STATION

: PETITIONER/ACCUSED

PAKRUDEEN, S/O.ASSAINAR, AGED 28 YEARS,
VETTITHODI HOUSE, VELIKKAD, MUNDOOR,
MANNARKKAD.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
MANNARKKAD POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4444 of 2007

Dated this the 25th day of July, 2007

ORDER

Application for anticipatory bail. Crime was registered initially under Section 324 I.P.C. The crux of the allegations is that the injured on 12.01.07 indulged in objectionable conduct inside a bar, where the petitioner was also present. There was some incident there, in which the injured suffered a fairly serious injury. He was treated. He was discharged on 22.01.07. The injured was allegedly inflicted injury with a dangerous weapon (a broken beer bottle). Investigation is now complete. Final report has already been filed. The petitioner, in these circumstances, has come to this Court claiming anticipatory bail.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even going by the version of the prosecution, the injured was responsible for the incident which took place in the bar. Even going by all the materials presently available, the allegation under Section 326 I.P.C is not justified. There is no specific plea that the injury had endangered life or that the injury suffered falls within clause eighthly of Section 320 I.P.C. At any rate, the petitioner may be granted anticipatory bail in the circumstances, it is prayed.

3. The application is not opposed by the learned Public Prosecutor. In the circumstances of the case to which I have made brief reference, I am satisfied that directions under Section 438 Cr.P.C can be issued in favour of the petitioner. In coming to this conclusion, absence of satisfactory allegations to bring the case within the 8th clause of Section 320 Cr.P.C does weigh with me though I do not intend to express any final opinion on the question. I also take note of the fact that the investigation has already been completed and the final report has already been filed.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 01.08.2007. He shall be enlarged on regular bail on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 5 p.m on 02.08.2007 and 03.08.2007;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest

the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 01.08.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.50,000/- (Rupees Fifty thousand only) without any sureties undertaking to appear before the learned Magistrate on 01.08.07.

(R.BASANT, JUDGE)

rtr/-